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BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF:

KEVIN MCKEOWN, D.O.

Holder of License No. **005863**

For the practice of osteopathic medicine in
the State of Arizona

) **Case No.: DO-17-0066A**

) **SECOND AMENDED ORDER**

) **FINDINGS OF FACT,**

) **CONCLUSIONS OF LAW, AND**

) **ORDER FOR CENSURE, SUSPENSION AND**
) **PROBATION**

On April 21, 2018, the Arizona Board of Osteopathic Examiners ("Board") met in open session to consider Dr. Kevin McKeown's ("Respondent") request to modify the Board's Order of October 20th, 2017. Respondent appeared personally and with counsel Robert Milligan and Barry Mitchell.

On or about October 20, 2017, the Board issued an Amended Findings of Fact, Conclusions of Law, and Order for Censure, Suspension and Probation. Pursuant to the Order, Respondent's license to practice medicine was suspended for a period of twelve (12) months, but did permit Respondent to seek early lifting of the suspension after six (6) months. Other terms of the October 21, 2017, Order include a five (5) year probationary period, continued psychiatric care, continued psychological care, a physical evaluation and payment of a civil penalty.

Respondent appeared before the Board to request the lifting of the suspension imposed by the Board's October 20, 2017, Order. After considering the evidence and testimony, the Board issues the following Order,

ORDER

Pursuant to the authority vested in the Board,

1 **IT IS THEREFORE ORDERED LIFTING THE SUSPENSION** imposed against Respondent's
2 license by the October 20, 2017, Order. All other terms and conditions of the October 20, 2017,
3 Order remain in place.

4 **IT IS FURTHER ORDERED** that Respondent shall appear personally before the Board at
5 its October 2018, meeting.



ISSUED THIS 27th DAY OF APRIL, 2018.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Rachel Shepherd

Rachel Shepherd, Interim Executive Director

12 Original "Second Amended Findings of Fact, Conclusions of Law and Order for Censure,
13 Suspension and Probation" filed this 27th day of April, 2018 with:

14 Arizona Board of Osteopathic Examiners
15 In Medicine and Surgery
16 1740 W. Adams St.
Phoenix, AZ 85007

17 Copy of the "Second Amended Finding of Fact, Conclusions of Law and Order for Censure,
18 Suspension and Probation" sent by certified mail, return receipt requested, this 27th day of
April, 2018 to:

19 Robert Milligan, Esq.
20 Milligan Lawless
21 5050 N. 40th Street, Ste. 200
Phoenix, AZ 85018

22 Copies of this "Second Amended Findings of Fact, Conclusions of Law and Order for Censure,
23 Suspension and Probation" filed/sent this 27th day of April, 2018 to:

24 Kevin McKeown, D.O.
25 Address of record

RS

BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

IN THE MATTER OF:)	Case No.: DO-17-0066A
)	
KEVIN MCKEOWN, D.O.)	AMENDED
Holder of License No. 005863)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
For the practice of osteopathic medicine in)	ORDER FOR CENSURE, SUSPENSION AND
the State of Arizona)	PROBATION

On March 9, 2017, the Arizona Board of Osteopathic Examiners (hereafter "Board") received information from Kevin McKeown, D.O. (hereafter "Respondent") relating to his practice of osteopathic medicine. On June 17, 2017, Dr. McKeown appeared before the Board and was represented by counsel, Mr. Milligan, for an Investigative Hearing. After additional investigation, the Investigative Hearing was continued to October 14, 2017. Respondent was present, participated in the Investigative Hearing and appeared with counsel, Mr. Milligan.

After hearing testimony from Respondent and considering the documents and evidence submitted, the Board voted to enter the following Findings of Fact, Conclusions of Law, and Order for Censure, Suspension and Probation.

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. § 32-1800 *et seq.*, to regulate the practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed, registered, or permitted to practice osteopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 005863 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

1 3. On March 6, 2017, Respondent forwarded a copy of a "Fraud Alert" from the
2 Arizona State Board of Pharmacy, which was filed by Thomas Shaw, a pharmacist with
3 Walgreens. Mr. Shaw reported that he had evidence to suggest that for the last five years,
4 Respondent had been fraudulently writing prescriptions for controlled substances for himself
5 and his wife, prescribed under the name of Salman Mamdani, an Illinois physician. Mr. Shaw
6 contacted Dr. Mamdani, who denied writing the prescriptions for Respondent. Further,
7 Respondent admitted to Mr. Shaw that he, Respondent, had written the prescriptions for
8 himself under Dr. Mamdani's name.

9 4. Respondent also disclosed that he wrote prescriptions under his own name for
10 controlled substances to his wife on several occasions.

11 5. On October 4, 2017, Respondent disclosed that he had been indicted by a State
12 Grand Jury for a number of felony charges as a result of his fraudulent prescribing of controlled
13 substances by using another physician's identity. The criminal charges remain pending.

14 6. Respondent fraudulently used another physician's name and DEA number to
15 write prescriptions for himself.

16 7. Respondent self-prescribed a controlled substance.

17 8. Respondent wrote prescriptions for controlled substances for an immediate
18 family member when another provider was available within fifty (50) miles.

19 9. Respondent failed to establish and maintain adequate patient records for his
20 wife.

21 10. Respondent's actions endangered the public health, safety and welfare.

22
23 **CONCLUSIONS OF LAW**
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1 11. The conduct described above constitutes unprofessional conduct pursuant to
2 A.R.S. § 32-1854 (6), which states, "Engaging in the practice of medicine in a manner that harms
3 or may harm a patient or that the board determines falls below the community standard."

4 12. The conduct described above constitutes unprofessional conduct pursuant to
5 A.R.S. § 32-1854 (20), which states, "Violating or attempting to violate, directly or indirectly, or
6 assisting in or abetting the violation of or conspiring to violate any of the provisions of this
7 chapter."

8 13. The conduct described above constitutes unprofessional conduct pursuant to
9 A.R.S. § 32-1854 (22), which states, "Using controlled substances or prescription-only drugs
10 unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a
11 lawful course of treatment."

12 14. The conduct described above constitutes unprofessional conduct pursuant to
13 A.R.S. § 32-1854 (23), which states, "Prescribing controlled substances to members of one's
14 immediate family unless there is no other physician available within fifty miles to treat a
15 member of the family and an emergency exists."

16 15. The conduct described above constitutes unprofessional conduct pursuant to
17 A.R.S. § 32-1854 (35), which states, "Violating a federal law, a state law or a rule applicable to
18 the practice of medicine."

19 16. The conduct described above constitutes unprofessional conduct pursuant to
20 A.R.S. §32-1854 (36), which states "Prescribing or dispensing controlled substances or
21 prescription-only medications without establishing and maintaining adequate patient records."
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2 17. The conduct described above constitutes unprofessional conduct pursuant to
3 A.R.S. § 32-1854 (38), which states "Any conduct or practice that endangers the public's health
4 or may reasonably be expected to do so."

5 18. The conduct described above constitutes unprofessional conduct pursuant to
6 A.R.S. §32-1854 (39), which states, "Any conduct or practice that impairs the licensee's ability
7 to safely and skillfully practice medicine or that may reasonably be expected to do so."
8

9 **ORDER**

10 Pursuant to the authority vested in the Board,

11 **IT IS HEREBY ORDERED** that Respondent, Kevin McKeown, D.O, holder of osteopathic
12 medical License number 005863, is issued a DECREE OF CENSURE.

13 1. **IT IS HEREBY FURTHER ORDERED** that Respondent, Kevin McKeown, D.O., holder of
14 osteopathic medical License number 005863, is placed on SUSPENSION for a period of twelve
15 (12) months from the effective date of the Order. If, after six (6) months from the effective
16 date of this Order, the Respondent wishes to have the suspension lifted, he must petition the
17 Board in writing and make that request. The request will be considered at a future meeting of
18 the Board. Respondent will be required to personally appear at that meeting and discuss his
19 request.
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21 2. **IT IS HEREBY FURTHER ORDERED** that upon the lifting of the SUSPENSION by the
22 Board, Respondent is placed on PROBATION for a minimum period of five (5) years from the
23 effective date of this Order. During the term of probation, Respondent shall comply with the
24 treatment providers' treatment plans as set forth below. At the conclusion of five years,
25

Respondent must petition the Board, in writing, for termination of his probation and release from all terms and conditions of the probation. If the Board determines that Respondent has not complied with all the requirements of this Order the Board, in its sole discretion, may either: (a) continue the probation or (b) institute proceedings for noncompliance with this Order, which may result in suspension, revocation, or other disciplinary and/or remedial action. The Respondent must personally appear at the Board meeting in which his request for termination of probation will be considered.

3. Psychiatric Care/Evaluation. IT IS FURTHER ORDERED that Respondent shall begin treatment by a psychiatrist who has been approved in advance by the Board's Executive Director. Within thirty (30) days of the effective date of this order Respondent shall present the name of a licensed psychiatrist for treatment to the Board's Executive Director for approval. The notification shall be in writing, by facsimile (480-657-7715) or email (jenna.jones@azdo.gov).

Respondent shall be evaluated or continue treatment with the approved psychiatrist within forty-five (45) days of the effective date of this Order. Respondent shall ensure the psychiatrist provides the Board staff with a copy of the initial report within forty-five (45) days of the date of the evaluation. Respondent shall comply with all treatment recommendations made by the psychiatrist. Respondent shall ensure that if psychiatric treatment is recommended, the psychiatrist will provide quarterly updates to the Board. The written updates shall be presented to the Board's Executive Director on the fifteenth (15th) of every month and shall inform the Board of such topics as issues addressed in treatment, Respondent's response to treatment suggestions and his progress made in treatment.

4. Counseling/Evaluation. Within forty-five (45) days of the effective date of this Order, Respondent shall undergo a psychological evaluation and, if recommended, participate

1 in cognitive behavioral therapy. The psychologist or counselor conducting the evaluation must
2 be licensed in Arizona and must be approved in advance by the Board's Executive Director.

3 The person must be an Arizona, licensed health professional, who is a psychologist or a
4 counselor as recommended by the psychiatrist. Respondent shall ensure the licensed health
5 care professional provides an initial evaluation within thirty (30) days of the initial visit and then
6 quarterly status reports to the Board during the pendency of this Order. Respondent shall
7 comply with all treatment recommendations made by the provider.

8 **5. Civil Penalty.** Respondent shall pay a civil penalty in the amount of \$1,000.00
9 dollars within six (6) months of the effective date of this Order.

10 **6. Board-Staff Approved Primary Care Physician.** Within fifteen (15) days of the
11 effective date of this Order, Respondent shall obtain a primary care physician ("PCP") who is
12 approved in advance by the Board's Executive Director. Respondent shall undergo a complete
13 physical and history with the PCP within ten (10) days of being notified by the Executive
14 Director that the PCP has been approved. The PCP shall not be in the same office practice as
15 the Respondent, nor related to the Respondent by blood or marriage. The Respondent shall be
16 required to have the PCP submit a copy of the history and physical to the Board office within
17 sixty days of the effective date of this Order. The PCP shall be responsible for and
18 coordinating Respondent's medical care and treatment. Except in an *Emergency*, Respondent
19 shall obtain medical care and treatment only from the PCP approved by the Board and from
20 health care providers to whom Respondent is referred by the PCP. Respondent shall request
21 that the PCP document all referrals in the medical record. Respondent shall promptly inform
22 the PCP of this Order and the requirement that he is to be monitored by the Board and provide
23 a copy of this Order to the PCP. Respondent shall also inform and provide a copy of this Order
24 to all other health care providers who provide medical care or treatment to Respondent while
25 Respondent is under this Order. For the purpose of this Order, "*Emergency*" means a serious

1 accident or sudden illness that, if not treated immediately, may result in a long-term medical
2 problem or loss of life.

3 7. **Costs:** Respondent shall bear all costs incurred regarding compliance with this
4 Order.

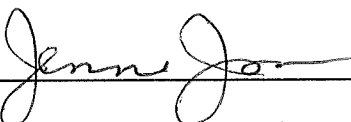
5 8. **Obey All Laws:** Respondent shall obey all federal, state and local laws, and all
6 rules governing the practice of medicine in the State of Arizona.

7 9. **Ceasing Practice in the State of Arizona:** In the event that Respondent ceases
8 to practice medicine in the State of Arizona, by moving out of state, failing to renew his license,
9 or maintaining an Arizona license but ceasing to practice clinical medicine or administrative
10 medicine requiring licensure, Respondent shall notify the Board that he has ceased practicing in
11 Arizona, in writing, within 10 days of ceasing to practice. In its sole discretion, the Board may
12 stay the terms of this Order until such time as the Respondent resumes the practice of
13 medicine in Arizona, or may take other action to resolve the findings of fact and conclusions of
14 law contained in this Order.

15 10. **Failure to Comply / Violation:** Respondent's failure to comply with the
16 requirements of this Order shall constitute an allegation of unprofessional conduct as defined
17 at A.R.S. § 32-1854(25) and proven violations may be grounds for further disciplinary action
18 (e.g., suspension or revocation of license).



ISSUED THIS 20th DAY OF OCTOBER, 2017.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: 
Jenna Jones, Executive Director

NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING

1 Any party may request a rehearing or review of this matter pursuant to A.R.S. § 41-
2 1092.09. The motion for rehearing or review must be filed with the Arizona Board of
3 Osteopathic Examiners within thirty (30) days. If a party files a motion for review or rehearing,
4 that motion must be based on at least one of the eight grounds for review or rehearing that are
5 allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30
6 days has the effect of prohibiting judicial review of the Board's decision. Service of this order is
7 effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing or
8 review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
9 Respondent.

10 Original "Amended Findings of Fact, Conclusions of Law and Order for Censure, Suspension and
11 Probation" filed this 20th day of October, 2017 with:

12 Arizona Board of Osteopathic Examiners
13 In Medicine and Surgery
14 9535 East Doubletree Ranch Road
15 Scottsdale AZ 85258-5539

16 Copy of the "Amended Finding of Fact, Conclusions of Law and Order for Censure, Suspension
17 and Probation" sent by certified mail, return receipt requested, this 20th day of October, 2017
18 to:

19 Robert Milligan, Esq.
20 Milligan Lawless
21 5050 N. 40th Street, Ste. 200
22 Phoenix, AZ 85018

23 Copies of this "Amended Findings of Fact, Conclusions of Law and Order for Censure,
24 Suspension and Probation" filed/sent this 20th day of October, 2017 to:

25 Kevin McKeown, D.O.
Address of record

